Supreme Court, U.S.
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Nos. 95-345 and 95-346

In the Supreme Court of the United States

OCTOBER TERM, 1995

UNITED STATES OF AMERICA, PETITIONER
v.
GUY JEROME URSERY

UNITED STATES OF AMERICA, PETITIONER
v.
FOUR HUNDRED AND FIVE THOUSAND, EIGHTY-NINE DOLLARS AND TWENTY-THREE CENTS ($405,089.23) IN UNITED STATES CURRENCY, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH AND NINTH CIRCUITS

JOINT APPENDIX

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PETITIONS FOR WRIT OF CERTIORARI FILED AUGUST 28, 1995
CERTIORARI GRANTED JANUARY 2, 1996

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
(FLINT)

CRIMINAL DOCKET FOR CASE #: 93-CR-50016-ALL

UNITED STATES OF AMERICA, PETITIONER

v.

GUY JEROME URSERY

RELEVANT DOCKET ENTRIES

DATE	NR	PROCEEDINGS
2/5/93	1	INDICTMENT against GUY JEROME URSERY (1) count(s) 1 (1016) [Entry date 02/08/93]
3/1/93		INITIAL appearance by defendant GUY JEROME URSERY (1) count(s) 1 before Magistrate Judge Marc L. Goldman, set unsecured bond in the amount of $10,000.00 as to defendant GUY JEROME URSERY with conditions - D/Atty: Lawrence Emery - AUSA: Marlene Dayne - Tape # 93-5 (1050) [Entry date 03/02/93]
3/1/93		ARRAIGNMENT held as to defendant GUY JEROME URSERY, plea of not guilty entered - Magistrate Judge Marc L. Goldman - D/

DATE	NR	PROCEEDINGS
		Atty: Lawrence Emery - AUSA: Marlene Dayne - Tape #: 93-5 (1050) [Entry date 03/02/93]
3/1/93	2	APPEARANCE for defendant GUY JEROME URSERY of attorney Lawrence J. Emery and demand for Rule 16 disclosures (1016) [Entry date 03/09/93]
3/1/93	3	ACKNOWLEDGEMENT by defendant GUY JEROME URSERY of indictment [1-1] (1016) [Entry date 03/09/93]
3/1/93	4	ORDER by Magistrate Judge Marc L. Goldman, setting unsecured bond in the amount of $10,000.00 as to defendant GUY JEROME URSERY with conditions (1016) [Entry date 03/09/93]
3/1/93	5	BOND in the amount of $10,000.00 unsecured entered as to defendant GUY JEROME URSERY (1016) [Entry date 03/09/93]
3/2/93	6	STANDING ORDER for discovery and inspection and fixing motion cutoff date in criminal cases by Judge Stewart Newblatt with Proof of Mailing (1016) [Entry date 03/09/93]

DATE	NR	PROCEEDINGS
3/9/93	9	NOTICE of pretrial conference with proof of mailing (1016) [Entry date 03/17/93]
3/15/93	7	PROOF of mailing of Appearance and Demands for Rule 16 Disclosures (1016) [Entry date 03/17/93]
3/15/93	8	PROOF of mailing of Appearance and Demands for Rule 16 Disclosures (1016) [Entry date 03/17/93]
3/17/93	10	ORDER by Judge Stewart Newblatt, deadline for filing motions, plea, final pretrial conference, criminal jury trial (sched events were not done because prior to doing them the Order was amended and the sched events were done on the new dates) (1016) [Entry date 03/25/93]
3/18/93	10	ORDER by Judge Stewart Newblatt, deadline for filing motions, plea, final pretrial conference, criminal jury trial (1016) [Entry date 03/25/93]
3/18/93		SCHEDULE: by Judge Stewart Newblatt deadline for filing motions set for 4/2/93, plea set for 4/20/93 for GUY JEROME URSERY, final pretrial conference set for 1:30 4/20/93, criminal jury trial set for

DATE	NR	PROCEEDINGS
		8:00 5/5/93 for GUY JEROME URSERY (1016) [Entry date 03/25/93]
4/5/93	12	MOTION by defendant GUY JEROME URSERY to strike mandatory minimum sentence provision of 21 USC 841(b) with brief (1016) [Entry date 04/14/93]
4/5/93	13	MOTION by defendant GUY JEROME URSERY for disclosure of informant with brief (1016) [Entry date 04/14/93]
4/5/93	14	MOTION by defendant GUY JEROME URSERY for evidentiary hearing and to suppress evidence with brief (1016) [Entry date 04/14/93]
4/6/93	15	ORDER by Judge Stewart Newblatt striking motion to strike mandatory minimum sentence provision of 21 USC 841(b) by GUY JEROME URSERY [12-1] (1016) [Entry date 04/14/93]
4/6/93	15	ORDER by Judge Stewart Newblatt striking motion for disclosure of

DATE	NR	PROCEEDINGS
		informant by GUY JEROME URSERY [13-1] (1016) [Entry date 04/14/93]
4/6/93	15	ORDER by Judge Stewart Newblatt striking motion for evidentiary hearing by GUY JEROME URSERY [14-1], striking motion to suppress evidence by GUY JEROME URSERY [14-2] (1016) [Entry date 04/14/93]
4/12/93	16	MOTION by defendant GUY JEROME URSERY for evidentiary hearing and suppression of evidence with brief (1016) [Entry date 04/15/93]
4/12/93	17	MOTION by defendant GUY JEROME URSERY for disclosure of informant with brief (1016) [Entry date 04/15/93]
4/12/93	18	MOTION by defendant GUY JEROME URSERY to strike mandatory minimum sentence provision of 21:841(b) with brief (1016) [Entry date 04/15/93]
4/12/93	19	PROOF of mailing of motions by Defendant Ursery (1016) [Entry date 04/15/93]

DATE	NR	PROCEEDINGS
4/16/93	20	STIPULATION by defendant GUY JEROME URSERY, plaintiff USA for a continuance (1016) [Entry date 04/26/93]
4/19/93	21	ORDER by Judge Stewart Newblatt, deadline for response to motion to strike mandatory minimum sentence provision of 21:841(b) by GUY JEROME URSERY [18-1], motion for disclosure of informant by GUY JEROME URSERY [17-1], motion for evidentiary hearing by GUY JEROME URSERY [16-1], motion suppression of evidence by GUY JEROME URSERY [16-2], final pretrial conference, criminal jury trial (1016) [Entry date 04/26/93]
4/19/93		SCHEDULE: by Judge Stewart Newblatt deadline for response to motion to strike mandatory minimum sentence provision of 21:841(b) by GUY JEROME URSERY [18-1] set for 5/17/93, motion for disclosure of informant by GUY JEROME URSERY [17-1] set for 5/17/93, motion for evidentiary hearing by GUY JEROME URSERY [16-I] set for 5/17/93, motion suppression of evidence by GUY JEROME

DATE	NR	PROCEEDINGS
		URSERY [16-2] set for 5/17/93 (1016) [Entry date 04/26/93]
4/19/93		SCHEDULE: by Judge Stewart Newblatt final pretrial conference set for <date not set>, criminal jury trial set for 8:00 6/8/93 for GUY JEROME URSERY (1016) [Entry date 04/26/93]
4/19/93		EXCLUDABLE interval of type XT beginning 4/12/93 and ending 6/8/93 per order deadline for response to motion to strike mandatory minimum sentence provision of 21:841(b) by GUY JEROME URSERY [18-1], motion for disclosure of informant by GUY JEROME URSERY [17-1], motion for evidentiary hearing by GUY JEROME URSERY [16-1], motion suppression of evidence by GUY JEROME URSERY [16-2] [21-1] (1016) [Entry date 04/26/93]
4/30/93	22	MOTION by defendant GUY JEROME URSERY to adjourn trial with brief (1016) [Entry date 05/13/93]
4/30/93	23	ORDER by Judge Stewart Newblatt granting motion to adjourn trial by

DATE	NR	PROCEEDINGS
		GUY JEROME URSERY [22-1] (1016) [Entry date 05/13/93]
4/30/93		SCHEDULE: by Judge Stewart Newblatt criminal jury trial set for 8:00 6/21/93 for Guy Jerome Ursery, final pretrial conference set for 3:00 6/16/93 (1016) [Entry date 05/13/93]
5/3/93	24	PROOF of mailing of Motion to adjourn trial, Brief and Order (1016) [Entry date 05/13/93]
5/12/93	25	REQUEST by defendant Guy Jerome Ursery, plaintiff USA to continue trial until 6/25/93 (1016) [Entry date 05/13/93]
5/13/93		EXCLUDABLE interval of type XT4 beginning 6/8/93 and ending 6/21/93 per order [23-1] (1016) [Entry date 05/13/93]
5/17/93	26	ORDER by Judge Stewart Newblatt adjourning criminal jury trial and allowing excludable (1016) [Entry date 05/21/93]
5/17/93		SCHEDULE: by Judge Stewart Newblatt criminal jury trial set for 8:00 6/28/93 for Guy Jerome Ursery (1016) [Entry date 05/21/93]

DATE	NR	PROCEEDINGS
5/17/93		EXCLUDABLE interval of type XT4 beginning 6/8/93 and ending 6/21/93 per order criminal jury trial [26-1], order [26-2] (1016) [Entry date 05/21/93]
5/24/93	27	RESPONSE by plaintiff USA to motion for disclosure of informant by Guy Jerome Ursery [17-1] with brief (1016) [Entry date 05/25/93]
5/24/93	28	RESPONSE by plaintiff USA to motion for evidentiary hearing by Guy Jerome Ursery [16-1] with brief (1016) [Entry date 05/25/93]
5/24/93	29	RESPONSE by plaintiff USA to motion to strike mandatory minimum sentence provision of 21:841(b) by Guy Jerome Ursery [18-1] with brief (1016) [Entry date 05/25/93]
5/24/93	30	PROOF of mailing of Government's Responses to Motions with Briefs (1016) [Entry date 05/25/93]
6/7/93	31	PROPOSED JURY instructions filed by plaintiff USA (1016) [Entry date 06/08/93]
6/15/93	32	REPLY by defendant Guy Jerome Ursery to motion response by USA

DATE	NR	PROCEEDINGS
		[28-1] with Affidavit and Proof of Mailing (1016) [Entry date 06/21/93]
6/16/93	33	MOTION by plaintiff USA to modify bond as to defendant Guy Jerome Ursery with proof of mailing (1016) [Entry date 06/22/93]
6/16/93	34	ORDER by Judge Stewart Newblatt granting motion to modify bond as to defendant Guy Jerome Ursery by USA [33-1] (1016) [Entry date 06/22/93]
6/16/93	35	ORDER by Judge Stewart Newblatt, setting unsecured bond in the amount of $10,000.00 as to defendant Guy Jerome Ursery with conditions (1016) [Entry date 06/22/93]
6/16/93		MOTION hearing held as to defendant Guy Jerome Ursery on motion for evidentiary hearing by Guy Jerome Ursery [16-1], motion suppression of evidence by Guy Jerome Ursery [16-2] disposition: denied - Judge Stewart Newblatt - Court Reporter: Sprague (1016) [Entry date 06/22/93]

DATE	NR	PROCEEDINGS
6/18/93	36	GOVERNMENT's proposed WITNESS list by plaintiff USA (1016) [Entry date 06/22/93]
6/18/93	37	PROPOSED EXHIBIT list by plaintiff USA (1016) [Entry date 06/22/93]
6/21/93	38	NOTICE by defendant Guy Jerome Ursery of objection to foundation for government exhibits with proof of mailing (1016) [Entry date 06/24/93]
6/21/93	39	ORDER by Judge Stewart Newblatt granting motion to modify bond as to defendant Guy Jerome Ursery by USA [33-1], criminal jury trial (1016) [Entry date 06/25/93]
6/24/93	39	ORDER by Judge Stewart Newblatt denying motion to strike mandatory minimum sentence provision of 21:841(b) by Guy Jerome Ursery [18-1] denying motion for evidentiary hearing by Guy Jerome Ursery [16-1], denying motion suppression of evidence by Guy Jerome Ursery [16-2] mooting motion for disclosure of informant by Guy Jerome Ursery [17-1] (1016) [Entry date 06/25/93]

DATE	NR	PROCEEDINGS
6/25/93	40	ORDER by Judge Stewart Newblatt, reassigning case from Judge Stewart Newblatt to Judge Avern Cohn for the purpose of conducting trial proceedings and any other related matters. (1043) [Entry date 06/28/93]
6/29/93	41	WITNESS list by defendant Guy Jerome Ursery (1043) [Entry date 06/30/93]
6/29/93	42	EXHIBIT list by defendant Guy Jerome Ursery (1043) [Entry date 06/30/93]
6/29/93	3	JURY instructions (requested) filed by defendant Guy Jerome Ursery (1043) [Entry date 06/30/93]
6/29/93		VOIR DIRE begun and continued to 9:00 6/30/93 before Judge Avern Cohn - Court Reporter: Herman Tappert (1164) [Entry date 07/01/93]
6/30/93		VOIR DIRE concluded before Judge Avern Cohn - Court Reporter: Herman Tappert (1164) [Entry date 07/01/93]
6/30/93		JURY impanelment held before Judge Avern Cohn -Court Reporter:

DATE	NR	PROCEEDINGS
		Herman Tappert (1164) [Entry date 07/01/93]
6/30/93		CRIMINAL jury trial begun and continued to 9:00 7/1/93 for Guy Jerome Ursery - Judge Avern Cohn - Court Reporter: Herman Tappert (1164) [Entry date 07/01/93]
7/1/93		CRIMINAL jury trial held and continued to 7/2/93 for Guy Jerome Ursery - Judge Avern Cohn - Court Reporter: Herman Tappert (1079) [Entry date 07/07/93]
7/2/93		CRIMINAL jury trial concluded - Judge Avern Cohn - Court Reporter: Herman Tappert (1053) [Entry date 01/27/94]
7/2/93		JURY verdict, of guilty entered as to Guy Jerome Ursery (1) count(s) 1, defendant Guy Jerome Ursery referred to probation - Judge Avern Cohn - Court Reporter: Herman Tappert (1053) [Entry date 01/27/94]
7/7/93	44	VERDICT form as to defendant Guy Jerome Ursery (1043) [Entry date 07/08/93]
7/9/93	45	MOTION by defendant Guy Jerome Ursery for new trial with exhibits,

DATE	NR	PROCEEDINGS
		brief, and proof of mailing. (1043) [Entry date 07/13/93]
7/15/93	46	MOTION by defendant Guy Jerome Ursery for dismissal of the case with brief and proof of mailing. (1043) [Entry date 07/19/93]
7/20/93	47	RESPONSE by plaintiff USA to motion for new trial by Guy Jerome Ursery [45-1] with brief, exhibits, and proof of mailing. (1043) [Entry date 07/26/93]
7/30/93	48	STIPULATION and order by Judge Avern Cohn, allowing the USA additional time to respond to motion for dismissal of the case by Guy Jerome Ursery [46-1] (1043) [Entry date 08/03/93]
7/30/93		SCHEDULE: by Judge Avern Cohn deadline for response to motion for dismissal of the case by Guy Jerome Ursery [46-1] extended to 8/27/93 (1079) [Entry date 08/04/93]
8/25/93	49	RESPONSE by plaintiff USA to motion for dismissal of the case by Guy Jerome Ursery [46-1] with brief, exhibits, and proof of mailing. (1043) [Entry date 08/30/93]

DATE	NR	PROCEEDINGS
9/14/93	50	MEMORANDUM and order by Judge Avern Cohn denying motion for dismissal (judgment of acquittal) of the case by Guy Jerome Ursery [46-1], denying motion for new trial by Guy Jerome Ursery [45-1] with proof of mailing. (1043) [Entry date 09/16/93]
11/2/93	51	MEMORANDUM by plaintiff USA in support of Probation Department's adjustment in presentence report for possession of firearm as to defendant Guy Jerome Ursery with brief and proof of mailing. (1043) [Entry date 11/08/93]
1/19/94		SENTENCING held - Judge Avern Cohn -D/Atty: L. Emery - AUSA: M. Dayne- Court Reporter: Herman Tappert (1109) [Entry date 01/20/94]
1/19/94	52	JUDGMENT and commitment order entered by Judge Avern Cohn sentencing Guy Jerome Ursery (1) count(s) 1. (time stamped 1/20/94) (1043) [Entry date 01/27/94]
1/31/94	53	MOTION by defendant Guy Jerome Ursery for bond pending appeal with brief and proof of mailing. (1043) [Entry date 02/01/94]

DATE	NR	PROCEEDINGS
1/31/94	54	APPEAL by defendant Guy Jerome Ursery of judgment [52-2] to USCA - FEE: not paid (1045) [Entry date 02/01/94]
1/31/94	57	REQUEST by defendant Guy Jerome Ursery for transcripts of trial and pretrial motions (1045) [Entry date 02/01/94]
2/1/94	55	PROOF of mailing of notice of appeal to USCA, Lawrence J. Emery, Robert Haviland, Patricia Blake and Herman Tappert (1045) [Entry date 02/01/94]
2/1/94	56	CERTIFIED copy of appeal notice by Guy Jerome Ursery [54-1] and docket transmitted to USCA (1045) [Entry date 02/01/94]
2/9/94	58	RESPONSE by plaintiff USA to motion for bond pending appeal by Guy Jerome Ursery [53-1] with brief, attachment, and proof of mailing. (1043) [Entry date 02/15/94]
2/15/94	59	NOTICE of hearing on motion for bond pending appeal by Guy Jerome Ursery [53-1] set before Judge Cohn. (1043) [Entry date 02/16/94]

DATE	NR	PROCEEDINGS
2/15/94	60	ORDER by Judge Avern Cohn as to defendant Guy Jerome Ursery, extending time to surrender to institution. (1043) [Entry date 02/16/94]
2/15/94		SCHEDULE: by Judge Avern Cohn as to defendant Guy Jerome Ursery hearing on motion for bond pending appeal by Guy Jerome Ursery [53-1] set for 3:30 3/2/94 for Guy Jerome Ursery (1109) [Entry date 02/16/94]
2/18/94	61	TRANSCRIPT order form by defendant Guy Jerome Ursery requesting transcripts of: 6/16/93 before Judge Newblatt, court reporter Sprague and 6/29/93 - 7/2/93 before Judge Cohn, court reporter Tappert. All witnesses and entire trial transcript including judge's rulings on motions, objections; and rulings on jury instructions. -appeal case # 94-1127 (1043) [Entry date 02/28/94]
2/18/94	62	DESIGNATION of record by defendant Guy Jerome Ursery - appeal case # 94-1127 (1043) [Entry date 02/28/94]

DATE	NR	PROCEEDINGS
2/23/94	63	ACKNOWLEDGEMENT from USCA, via copy of transmission form, of receipt of appeal notice by Guy Jerome Ursery [54-1] (stamped received by USCA 2/7/94 and stamped filed by USCA 2/11/94) - appeal case # 94-1127 (1043) [Entry date 03/03/94]
2/25/94	64	FEE payment received from defendant Guy Jerome Ursery for appeal notice by Guy Jerome Ursery [54-1] in the amount of $105.00 - Receipt # 200 301506 - appeal case # 94-112 7. (2/28/94 - USCA notified by E-Mail) (1043) [Entry date 03/03/94]
3/2/9465		APPLICATION and order by Judge Avern Cohn for defendant Guy Jerome Ursery to proceed in forma pauperis regarding appeal filed 1/31/94. (#94-1127) (1043) [Entry date 03/03/94]
3/2/94		MOTION hearing held as to defendant Guy Jerome Ursery on motion for bond pending appeal by Guy Jerome Ursery [53-1] - disposition: GRANTED - Judge Avern Cohn - Court Reporter: Denise Mosby (1164) [Entry date 03/28/94]

DATE	NR	PROCEEDINGS
3/18/94		ATTORNEY added for Guy Jerome Ursery - by Order of the Court of Appeals (1016) [Entry date 03/31/94]
3/18/94	67	ORDER as to defendant Guy Jerome Ursery by the Court of Appeals appointment Lawrence J. Emery as counsel for appellant (1016) [Entry date 03/31/94]
3/21/94	66	ORDER by Judge Avern Cohn granting motion for bond pending appeal by Guy Jerome Ursery [53-1] (1043) [Entry date 03/22/94]
4/11/94	68	TRANSCRIPT of jury trial proceedings (Volume I) as to defendant Guy Jerome Ursery taken on 6/30/93 before Judge Cohn. (1043) [Entry date 04/14/94]
4/11/94	69	TRANSCRIPT of jury trial proceedings (Volume II) as to defendant Guy Jerome Ursery taken on 7/1/93 before Judge Cohn. (1043) [Entry date 04/14/94]
4/11/94	70	TRANSCRIPT of jury trial proceedings (Volume III) as to defendant Guy Jerome Ursery taken on 7/2/93 before Judge Cohn. (1043) [Entry date 04/14/94]

DATE	NR	PROCEEDINGS
4/11/94	71	TRANSCRIPT of sentence proceedings as to defendant Guy Jerome Ursery taken on 1/19/94 before Judge Cohn. (1043) [Entry date 04/14/94]
5/18/94	72	TRANSCRIPT of motions proceedings as to defendant Guy Jerome Ursery and before Judge Stewart Newblatt taken on 6/16/93 (1043) [Entry date 05/27/94]
6/2/94	74	AUTHORIZATION and voucher for payment of transcript to Lightning Recording Service in the amount of $63.00 as to defendant Ursery. (1043) [Entry date 06/30/94]
6/2/94	75	AUTHORIZATION and voucher for payment of transcript to Herman Tappert, court reporter, in the amount of $1,149.00. (1043) [Entry date 06/30/94]
6/6/94	73	TRANSCRIPT of motion for bond pending appeal proceedings as to defendant Guy Jerome Ursery taken on 3/2/94 before Judge Cohn. (1043) [Entry date 06/07/94]

DATE	NR	PROCEEDINGS
7/18/94	76	MOTION by defendant Guy Jerome Ursery to supplement record for appeal with brief, copies of exhibits, and proof of mailing. (1043) [Entry date 07/20/94]
7/18/94	77	ORDER by Judge Avern Cohn granting motion to supplement record for appeal by Guy Jerome Ursery [76-1]. (The District Court Clerk is directed to certify and transmit to the Court of Appeals for the Sixth Circuit the court file in USA -v- Certain Real Property located at 1700 Braden Road, file no. 92-cv-75843. The trial exhibits attached to the defendant's motion and a photograph of the goverment's, the defendant's motion and a photograph of government's exhibit 13 are to be made a part of the record for exhibit 13 are to be make a part of the record for transmittal.) (1043) [Entry date 07/20/94]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
(DETROIT)

CIVIL DOCKET FOR CASE #: 92-CV-75843

UNITED STATES OF AMERICA

v.

REAL PROPERTY LOCATED AT 1700 BRADEN ROAD

RELEVANT DOCKET ENTRIES

DATE	NR	PROCEEDINGS
9/30/92		Magistrate Judge Lynn V. Hooe Jr. (1065) [Entry date 10/01/92]
9/30/92	1	COMPLAINT for forfeiture, with WI (1052) [Entry date 10/02/92]
10/1/92	2	WARRANT for search and seizure issued as to 1700 Braden Road with attached application and affidavit. (1052) [Entry date 10/02/92]
10/7/92	3	CLAIM by Guy J. Ursery, Cynthia K. Ursery with proof of mailing. (1052) (Entry date 10/08/92]
10/8/92	4	WARRANT for search and seizure executed by Marshal on 10/2/92 as to

DATE	NR	PROCEEDINGS
		1700 Braden Road (1052) [Entry date 10/13/92]
10/23/92	5	ANSWER by claimant Guy J. Ursery, claimant Cynthia K. Ursery to complaint [1-1] jury demand and with proof of mailing. (1052) [Entry date 10/26/92]
10/27/92	6	SUMMONS returned executed by US Marshal on 10/2/92 as to defendant RP 1700 Braden Road - answer due 10/22/92 for RP 1700 Braden Road (1052) [Entry date 10/30/92]
10/30/9	27	PRETRIAL scheduling order by Judge Lawrence P. Zatkoff (1052) [Entry date 11/02/92]
11/3/92		SCHEDULE: by Judge Lawrence P. Zatkoff scheduling conference set for 2:30 11/9/92 (1089)
11/13/92	8	PRETRIAL scheduling order by Judge Lawrence P. Zatkoff (1054) [Entry date 11/16/92]

DATE	NR	PROCEEDINGS
11/16/92		SCHEDULE: by Judge Lawrence P. Zatkoff deadline for interrogatories set for 12/21/92, deadline for filing motions set for 1/25/93, deadline for expert witness list set for 2/1/93, deadline for discovery set for 2/15/93, deadline for filing dispositive motions set for 3/8/93, deadline for final pretrial order set for 6/14/93, final pretrial conference set for 2:00 6/14/93, civil jury trial set for 8:30 7/1/93 (1089)
11/18/92	9	AFFIDAVIT of publication of complaint on 11/12/92 (1052) [Entry date 11/19/92]
12/10/92	10	ANSWER by claimant NBD Mtg Co to complaint [1-1] with exhibits (1052) [Entry date 12/11/92]
12/10/92	10	AFFIRMATIVE defenses by claimant NBD Mtg Co (1052) [Entry date 12/11/92]
12/10/92	11	APPEARANCE for claimant NBD Mtg Co of attorney Steven I. Alpert with notice. (1052) [Entry date 12/11/92]
12/10/92	12	PROOF of mailing of pleadings #10 & 11. (1052) [Entry date 12/11/92]

DATE	NR	PROCEEDINGS
12/11/92	13	CLAIM of interest by claimant NBD Mtg Co, with exhibits, verification, and proof of mailing. (1024) [Entry date 12/14/92]
12/15/92	14	PROOF of mailing of interrogatories. (1052) [Entry date 12/16/92]
1/26/93	15	MOTION by claimant Guy J. Ursery, claimant Cynthia K. Ursery to compel discovery with brief, exhibits and proof of mailing. (1052) [Entry date 01/27/93]
2/1/93	16	WITNESS list by plaintiff USA (1052) [Entry date 02/02/93]
2/11/93	17	ORDER by Judge Lawrence P. Zatkoff granting motion to compel discovery by Cynthia K. Ursery, Guy J. Ursery [15-1] with proof of mailing. (1052) [Entry date 02/02/93]
2/2/93	18	PROOF of mailing of plaintiff's witness list and answer to request. (1052) [Entry date 02/03/93]
2/2/93	19	TRIAL WITNESS list by claimant NBD Mtg Co with proof of mailing. (1052) [Entry date 02/03/93]

DATE	NR	PROCEEDINGS
2/4/93	20	WITNESS list by claimants Guy J. Ursery and Cynthia K. Ursery with proof of mailing. (1052) [Entry date 02/05/93]
2/19/93	21	STIPULATION and order by Judge Lawrence P. Zatkoff extending discovery date. (1052) [Entry date 02/22/93]
3/10/93	22	MOTION by claimants Guy and Cindy Ursery for evidentiary hearing, to dismiss with brief, attachments and proof of mailing. (1052) [Entry date 03/11/93]
3/22/93	23	NOTICE by claimants of hearing on motion for evidentiary hearing [22-1], motion to dismiss [22-2] with proof of mailing. (1052) [Entry date 03/23/93]
3/23/93	24	RESPONSE by plaintiff USA to motion for evidentiary hearing by Cynthia K. Ursery, Guy J. Ursery [22-1], motion to dismiss by Cynthia K. Ursery, Guy J. Ursery [22-2] with brief, and attachment (1024) [Entry date 03/24/93]
3/24/93	25	PROOF of mailing of answer to claimants' motion for evidentiary hearing. (1052) [Entry date 03/25/93]

DATE	NR	PROCEEDINGS
3/26/93	26	RE-NOTICE by claimants of hearing on motion for evidentiary hearing [22-1], motion to dismiss [22-2] with proof of mailing. (1052) [Entry date 03/29/93]
4/22/93	27	STIPULATED expedited SETTLEMENT agreement (1052) [Entry date 04/23/93]
4/30/93	28	PROOF of mailing of Expedited Settlement Agreement (1052) [Entry date 05/03/93]
5/24/93	29	CONSENT judgment entered by Judge Lawrence P. Zatkoff for USA against Guy J. Ursery, Cynthia K. Ursery for $13,250.00. (1118) [Entry date 05/25/93]
8/26/93	30	PROOF of mailing of consent judgment of forfeiture (1044)
11/22/94		RECORD consisting of: 1 volume(s) of pleadings 0 transcript(s) 0 deposition(s) transmitted to USCA - record sent per order of 7/18/94 in case 4:93cr50016 (#77) (1142) [Edit date 11/22/94]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

No. 93-50016
HON. STEWART A. NEWBLATT
UNITED STATES OF AMERICA, PLAINTIFF
v.
GUY JEROME URSERY, DEFENDANT

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

(manufacture of marihuana)
(21 U.S.C. §841(a)(1)

That on or about July 30, 1992, in the Eastern District of Michigan, GUY JEROME URSERY did knowingly and intentionally manufacture marihuana, a schedule I controlled substance; in violation of Title 21, United States Code, Section 841(a)(1).

THIS IS A TRUE BILL.

Dated: 2-5-93

/s/ JANET J. SULZ
JANET J. SULZ
FOREPERSON

STEPHEN J. MARKMAN
UNITED STATES ATTORNEY

/s/ ROBERT W. HAVILAND
ROBERT W. HAVILAND
(P25665)
Asst. U.S. Attorney-in-Charge

/s/ MARLENE DAYNE
MARLENE DAYNE
(P33973)
Assistant U. S. Attorney
600 Church St.,
Room 210
Flint, MI 48502

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

CRIMINAL ACTION NO: 93-CR-50016-FL
UNITED STATES OF AMERICA, PLAINTIFF
v.
GUY JEROME URSEY, DEFENDANT

AMENDED SCHEDULING ORDER

At a preliminary hearing of the above-captioned matter held with the law clerk and all the parties, certain dates were set pursuant to the Speedy Trial Act, 18 U.S.C. § 3161. IT IS HEREBY ORDERED that the parties shall comply with the following dates:

Motion cutoff date:	April 2, 1993.
Plea cutoff date:	April 20, 1993.
Final pretrial date:	April 20, 1993; 1:30 p.m.
Jury trial date:	May 5, 1993; 8:00 a.m.

SO ORDERED.

Date: 3/18/93

/s/ STEWART A. NEWBLATT
STEWART A. NEWBLATT
United States District Judge

CERTIFICATION OF SERVICE

UNITED STATES OF AMERICA
EASTERN DISTRICT OF MICHIGAN

CASE NO: 93-50016

I, the undersigned, hereby certify that I have on the 18th day of March, 1993, mailed a copy of the AMENDED SCHEDULING ORDER in the foregoing cause, pursuant to Rule 77(d), Fed.R.Civ.P., to the following persons at the addresses given:

Marlene Dayne
Assistant U.S. Attorney
206 Federal Building
600 Church Street
Flint, MI 48502

Lawrence J. Emery, Esq.
3401 E. Saginaw
Suite 104
Lansing, MI 48912-4730

/s/ COLETTE J. LEHOUX
COLETTE J. LEHOUX, Secretary
to Stewart A. Newblatt
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CASE NO. 92 CV 75843
HONORABLE LAWRENCE P. ZATKOFF

UNITED STATES OF AMERICA, PLAINTIFF(S)

v.

REAL PROPERTY LOCATED AT 1700
BRADEN ROAD, ET AL., DEFENDANT(S)

SCHEDULING ORDER FOR THE PURPOSE OF:

(1) Scheduling future proceedings;

(2) Establishing deadlines and cut-off dates for discovery procedures, amendments to pleadings and joining parties;

(3) Modifying motion practice; and

(4) Referring certain pretrial matters to United States Magistrate Judge.

COUNSEL ARE ADVISED THAT IT IS THE POLICY OF THE COURT TO ENFORCE THE DEADLINES AND CUT-OFF DATES SET FORTH IN THIS SCHEDULING ORDER PURSUANT TO RULE 16(F), FEDERAL RULES OF CIVIL PROCEDURE.

SPECIAL NOTICE: Pursuant to Rule 16(b), Federal Rules of Civil Procedure, requests for modification of this Scheduling Order must be submitted in writing by mail to the Court within 14 days from the date of this Scheduling Order.

Pursuant to the Federal Rules of Civil Procedure, the Court enters the following schedule controlling the progress of the above-entitled cause:

IT IS ORDERED:

1. The deadline date for serving first set of interrogatories and/or requests for production of documents to a party, pursuant to Rules 33 and 34, Fedeal Rules of Civil Procedure is 12-21-92.

2. The deadline date for filing motions to compel with respect to such interrogatories and/or requests for production of documents to a party pursuant to Rule 37(a), Federal Rules of Civil Procedure, is 1-25-93.

3. Parties are ORDERED to exchange complete trial witness lists on or before 2-1-93 and file a proof of service. NO WITNESS MAY BE CALLED FOR TRIAL UNLESS THAT WITNESS'S NAME AND ADDRESS IS LISTED, unless the Court rules, prior to trial, that there was good cause for failing to list such witness.

4. Case will be referred to Mediation Tribunal: n/a.

5. The discovery cut-off is 2-15-93. ALL DISCOVERY SHALL BE INITIATED WELL IN ADVANCE OF THE DISCOVERY CUT-OFF DATE. MOTIONS TO COMPEL, IF NECESSARY, MUST BE FILED AND HEARD BEFORE THE DISCOVERY CUT-OFF DATE.

6. Dispositive motions (summary judgment, etc.) if any, shall be filed by 3-8-93. (See comment below on motion practice.)

7. Motions in limine must be filed with the Court before the pretrial/settlement conference date. No motions in limine will be heard on day of trial.

8. The proposed pretrial order shall be submitted to the Judge's Chambers by 6-14-93. Instructions are attached. FAILURE TO SUBMIT A TIMELY PRETRAIL ORDER WILL RESULT IN THE ISSUANCE OF SANCTIONS.

9. FINAL PRETRIAL/SETTLEMENT CONFERENCE IS SCHEDULED FOR 6-14-93 AT 2:00 p.m. TRIAL COUNSEL MUST BE PRESENT, AS WELL AS THE CLIENTS AND/OR THOSE WITH FULL AUTHORITY TO ENGAGE IN SETTLEMENT NEGOTIATIONS.

10. JOINT jury instructions for jury cases, or individual proposed findings of act and conclusions of law for non-jury cases, must be submitted to the Court on the first day of trial. Trial briefs must be submitted at least 3 days before trial. (See Local Court Rule 39.2)

11. Parties are to exchange copies of all exhibits, or divulge and permit an opportunity to review exhibits not capable of being copied, at least 20 days prior to the month in which the case is scheduled for trial.

All proposed exhibits are to be jointly pre-marked and indexed.

In jury cases, the Court shall be furnished with a copy of all proposed documentary exhibits IN BINDERS with a typed index. In non-jury cases, the Court shall be furnished with two (2) copies of all proposed documentary exhibits IN BINDERS and two (2) typed indexes.

12. All depositions shall be edited prior to the Final Pretrial/Settlement Conference date. The Court will not hear any motions or objections regarding the content of depositions after the Final Pretrial/Settlement Conference.

13. The case is assigned for Jury trial on the Court's trailing docket for July, 1993.

14. When each attorney for each party in any suit desires an early trial date and will dispatch all pretrial motions, this Court will assure the earliest open date for trial. Call Ms. Thebolt, Court Clerk at (313) 226-3714.

QUESTIONS CONCERNING THIS SCHEDULING ORDER SHOULD BE DIRECTED TO THE COURT'S COURTROOM DEPUTY CLERK, BERNADETTE THEBOLT, AT 226-3714.

MOTION PRACTICE

Counsel are expected to comply with Rule 7.1, Local Rules of this Court, including the requiring of filling responses and briefs with Ten (10) days after service of motion.

Oral arguments on motions will not be held unless, upon consideration, the Court so orders. If the Court does order oral argument, reasonable notice of a date and time will be given to all counsel. E.D. Mich. Local R. 7.1(e)(2).

Date: Nov. 13, 1992 /s/ LAWRENCE P. ZATKOFF
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

NOTICE TO:

Joyce F. Todd, AUSA

Lawrence J. Emery, Esq.,

STATE OF MICHIGAN
JUDICIAL DISTRICT

POLICE AGENCY REPORT NUMBER: 7-3036-92
AFFIDAVIT FOR SEARCH WARRANT

Thomas B. Feahr, Affiant(s), state(s) that:

1. The person, place or thing to be searched is described as and is located at:

A one story, brown wood sided ranch style home with attached garage and all outbuildings and vehicles located at 1700 Braden Rd., Perry, MI 48872 and further described as the first residence on the south side of Braden Rd., just east of State Rd., section 32 of Antrim Twp., Shiawassee County.

2. The PROPERTY to be searched for and seized, if found, is specifically described as:

All evidence of narcotics and narcotics trafficking including any items recognizable as narcotics or suspected of being same, any records suspected of being related to narcotics trafficking, records establishing residency, control or ownership of premises, any currency believed to be the proceeds of drug transactions, firearms or weapons used to protect the controlled substances or the proceeds from the sale of the controlled substances, any drug paraphernalia, any utility and telephone records, and any items used for manufacturing marijuana or other illegal drugs.

3. The FACTS establishing probable cause or the grounds for search are:

A. Affiant is a Detective/Trooper with the Michigan state police and has been a police officer for over five years. Affiant has been assigned Criminal Investigation Division to investigate illegal narcotic trfficking in the Shiawassee County area for over one year. Affiant has extensive specialized training in the area of enforcement.

B. Affiant was contacted by Officer Chester Farrier of Morrice Police Dept. Farrier advised Affiant that he has a informant that has been proven reliable. Farrier advised Affiant the informant told him the following:

1. A person named Guy Ursery resides at 1700 Braden Rd., Perry and he has a son named Brian Ursery.

2. Informant has known Guy Ursery for several years.

3. Informant has personally observed that Guy Ursery grows marijuana on his property that the residence occupies.

This affidavit consist of 2 pages. /S/ D/trr/ THOMAS (illegible)
Affiant

Reviewed on [July 29, 1992]
Date

Subscribed and sworn to before me on [7-29-92]
Date

by: DEANA M. FINNEGAN
Prosecuting Official

BART J. BARNES
Judge/Magistrate

4. Informant stated that Ursery first starts marijuana seedlings in a chicken coop and then transplants the immature plants on his property.

5. That Ursery dries marijuana on a woodpile at the residence.

6. That Ursery stores marijuana in a crawl space inside the residence.

7. That Ursery uses chicken wire to surround the growing marijuana plants to keep animals from eating the immature plants.

8. That Ursery has used the same growing methods and pattern every year.

9. That Ursery has numerous firearms, including firearms kept under his bed, a loaded firearm near the fireplace of the residence.

10. Ursery has told the informant that he would shoot anyone found on the property. Ursery told the informant if you are going to shoot a cop, then shoot him in the head.

C. Affiant was advised by Farrier that the informant could draw a map of Ursery's property showing the locations of marijauna being grown.

D. That on 06-22-92 the informant did in fact draw a map of the property for Farrier. Farrier did locate a residence at 1700 Braden Rd.

E. Affiant did personally verify through Secretary of state and vehicle records that Guy Ursery does live at 1700 Braden Rd. Perry, and that there is a Brian Ursery shown as residing there also.

F. That Affiant and Farrier did personally drive by the residence located at 1700 Braden Rd., Perry and the map closely resembled the actual property layout.

G. That on 07-27-92 Affiant and Farrier walked onto the property described on the informants map. Affiant and Farrier verified the map as being accurate by using landmarks drawn by the informant.

H. That Affiant and Farrier did locate at least three plots of suspected marijuana in the location described on the map. These plots were surrounded by chicken wire as described by the informant. Two plots held approximately nine plants each and one plot held approximately twenty five plants.

I. That Affiant did seize one plant from the plot and Affiant believed the plant to be marijuana. This plant was seized on the same date of 07-27-92.

J. That Affiant personally delivered the seized plant to Laboratory expert Phyllis Good at the MSP Crime Lab, and that Phyllis Good conducted a cursory examination of the seized plant and verified that the plant was indeed marijuana.

Whereas the Affiant has personally verified information received from the informant and believes the

informant to in fact be credible and reliable based on the foregoing information, and Affiant has reasonable and probable cause to believe, and does believe, that the above described premises contain evidence of violations of criminal statutes of Michigan, and therefore requests the court issue a warrant directing any officer of the State of Michigan to search the place described above and to seize those items described above and to make return and tabulation thereof according to law.

Further the Affiant sayeth not.

[7-29-92]
Date

/s/ BART J. BARNES
J. BARNES
Judge/Magistrate

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CASE No. 93-CR-50016
HONORABLE AVERN COHN

UNITED STATES OF AMERICA

vs.

GUY JEROME URSERY, DEFENDANT

TRIAL EXCERPTS

APPEARANCES:

MARLENE A. DAYNE, ESQ.
Assistant United States Attorney
206 Federal Building
600 Church Street
Flint, Michigan 48502

Appearing on behalf of United States of America.

LAWRENCE J. EMERY, P.C.
Point North Professional Center
Suite 104
3401 East Saginaw
Lansing, Michigan 48912

Appearing on behalf of Defendant Guy Jerome Ursery.

[87]

* * * * *

[Excerpts from Trial Testimony of Heather McPherson, Tr. 134-186]

* * * * *

[134]

* * * * *

HEATHER McPHERSON,
having been first duly sworn, was examined and testified upon her oath as follows:

DIRECT EXAMINATION

BY MS. DAYNE:

Q Please state your full name and spell your last name.

A My name is Heather Ann McPherson. Do you want me to spell my last?

Q Yes.

[135]

A M-c-P-h-e-r-s-o-n.
Q How old are you?
A I am 20.
Q Are you currently employed?
A Yes, I am.
Q Where are you working?
A At Ewell (ph.) Barber Shop in Perry, Michigan.
Q Do you know someone named Brian Ursery?
A Yes, I do.
Q How and when did you meet?
A I met him in 1988 or '89.
Q How did you happen to meet him at that time?

A He was a new student at my high school.
Q Was that in Perry?
A No, in Morris.
Q And what was your relationship with Brian Ursery?
A He was my boyfriend for about three years.
Q When did you start dating or start calling him your boyfriend?
A On April 7th — September 7th of '89.
Q And at some point you broke up?
A Yes, in February of '92.
Q Now, during that time that you and Brian were boyfriend and girlfriend, where did Brian live?
A He lived at 1700 Braden Road in Perry, Michigan.

[136]

Q And about how many times were you in the Ursery's house at 1700 Braden Road?
A Several times.
Q Could you give us approximately a number or how often?
A Almost every day of the week.
Q What is your relationship with Brian today?
A We were friends, but I don't think we are any more.
Q Do you know Brian's father, the defendant, Guy Jerome Ursery?
A Yes.
Q Do you remember when you first met him?
A I met him about two weeks after I started going with Brian.
Q September '89 that would have been?
A Yes.

Q Now, was the defendant also living at 1700 Braden Road?

A Yes, he was.

Q About how much property did the defendant own?

A About ten acres.

Q Did anyone else live there besides the defendant and Brian?

A Yes, the defendant's wife, Sandy Ursery.

Q Do you know approximately how long he had lived at 1700 Braden Road as of this date?

A Yes, probably about four or five years.

Q And about how far away from the Ursery's house is the next closest house?

[137]

A About a quarter of a mile.

Q And a quarter mile away, how many houses are there?

A Just one.

Q And then after that house, how close would the next house be?

A About a mile.

Q Have you ever seen marihuana plants growing at the defendant's house?

MR. EMERY: Objection, your Honor, without an indication of time, time limits.

THE COURT: I suppose this is a prefatory question.

Go ahead.

Q (By Ms. Dayne): Have you ever seen marihuana plants growing at the defendant's house?

A Yes, I have.

Q And when was that?

MR. EMERY. Objection, your Honor, basis for her knowledge that it was on this property which she has testified to.

THE COURT: Well, okay, wait a second.

That's a rather general question, Counsel.

MS. DAYNE: I am going to go into detail.

THE COURT: Well, in the house or out of the house.

Q (By Ms. Dayne): Did you see marihuana plants growing inside or outside of the defendant's house?

[138]

A Both.

Q And when was the first time you saw this?

A It would have been the second summer that I dated him, which would have been '91 — or '90.

MR. EMERY: Objection, your Honor. It's irrelevant.

THE COURT: Well, there is no pending question. Let's see where we go.

Q (By Ms. Dayne): Okay. You started to go out with Brian in September of '89?

A Yes.

Q And you said the second summer after you started going out with him?

A Yes.

Q So when would that have been?

A It would have been '91.

Q And the first time you saw marihuana plants, where specifically did you see them?

A The first time I saw them?

Q Yes.

A They planted them in little plastic crates and put them out on a pallet in their back yard.

Q Well, how far from the house would that have been?

A How far would the pallet have been?

Q Yes, where the plants were.

[139]

A About half the length of a football field.

Q Now, did you ever see the defendant or anyone else do anything to take care of those plants?

A Yes, I did.

Q Who did you see do something?

A They all participated.

Q Who do you mean by "they all"?

A Cindy, Jerry and Guy.

Or Cindy, Jerry and Brian,

Q During the time that you were going with Brian, did you call the defendant Jerry?

A Yes.

Q Did his friends call him that?

A Yes, that's what everybody calls him.

Q Okay. So if you during the testimony say "Jerry," you mean the defendant?

A Yes.

Q Just so we understand.

Okay, and what you said you saw the defendant, his wife and his son do something to take care of the plants: What did you see them do?

A They watered them. They would cover them up partial time of the days so that they wouldn't get too much sun or they wouldn't get frost out at night.

MR. EMERY: Objection as to the time, your Honor, when this was observed.

[140]

THE COURT: You'll have a right to cross-examine.

MR. EMERY: Thank you, Judge.

THE COURT: Go ahead.

Q (By Ms. Dayne): Do you know where the defendant got the marihuana seeds to start these plants?

THE COURT: Just yes or no.

A No.

Q (By Ms. Dayne): Did the defendant ever tell you where he got the seeds?

A No.

Q Now, these let's call them seedlings, how big were they when you first saw them?

A Oh, I don't know, not very big. They were just coming up.

Q Did you see that those seedlings were ever transplanted?

A I wasn't present when they were transplanted, no.

Q Do you know if they were?

A Yes.

MR. EMERY: Your Honor, I object. She's not competent to give an opinion.

THE COURT: Well, wait, Counsel.

MR. EMERY: No, she is testifying—

THE COURT: But there is no pending question. She said she did not see them transplanted. There is no pending question.

[141]

MR. EMERY: Well, I think the next question, your Honor, is "were they transplanted" and she said, "Yes."

THE COURT: Well, we don't know that. You'll have an opportunity to cross-examine.

Go ahead.

Q (By Ms. Dayne): Did you see the marihuana plants in a different location?

A Yes.

THE COURT: Well, wait a minute. Did you see those that were on the pallet or did you see marihuana plants in a different location. There is a distinction.

Q (By Ms. Dayne): Did you see those marihuana plants that you had seen on the pallet, did you see those in a different location at any time?

A Well, I was told they were the same ones, yes.

MR. EMERY: Objection.

Q (By Ms. Dayne): Who told you that?

MR. EMERY: Hearsay. Objection, your Honor.

THE COURT: Mr. Emery, you've got to wait. She's being asked. It depends upon who told her — whether or not it is hearsay.

MR. EMERY: Agreed.

THE COURT: Go ahead.

Q (By Ms. Dayne): Who told you that?

A The defendant and the defendant's son.

[142]

Q Where were these marihuana plants when you saw them later?

A Out in the fields by their house.

Q Did you know at the time who owned that property where the plants were?

A I assumed they did.

Q Why did you assume that?

A Because they used that property.

Q About how many times did you see the marihuana plants in the ground on that property?

A About five times.

Q Did somebody take you out to show you those plants?

A Yes.

Q Who did that?

A The defendant's son.

Q About how far from the house were these marihuana plants growing?

A I'd say about a hundred yards.

Q When you were out at the marihuana plants, if you looked back in the direction of the house, could you see the house?

A Yes.

THE COURT: This is all the summer of '91, right?

THE WITNESS: Yes.

THE COURT: Go ahead.

Q (By Ms. Dayne): About how many times did you see those plants while they were growing?

[143]

MR. EMERY: Objection. Both asked and answered, your Honor.

THE COURT: I believe she has already answered that.

Q (By Ms. Dayne): The first time you saw the plants growing, about how tall were they?

A Oh, they were, oh, about two or three inches—two or three feet high.

Q And about how many plants were there? What configuration were they in?

A As in how many were in each plot?

Q How many plots were there and how many plants in each plot.

A There were about five plots, and I'd say about a dozen to each plot.

Q Was there any kind of fencing around each plot?

A There was one that I remembered that had, like, chicken wire around one of them.

Q And what did the land look like that surrounded these marihuana plots?

A Mowed down.

Q Tell us more specifically what was mowed?

A The grass, the weeds that went to the plants was mowed by the people, by the defendant and his son. They mowed it.

Q They mowed around the plants?

A They mowed a path to get to it and around the plants.

Q How do you know—

[144]

MR. EMERY: Excuse me, your Honor. She should tell us the foundation, if she had personal knowledge.

THE COURT: Well, wait. You will have an opportunity to cross-examine her.

Go ahead, Counsel.

Q (By Ms. Dayne): How do you know that they moved around the plants?

A Because I was there and I know. I was there and I know.

THE COURT: Well, wait. Now, you can't just say you know. Did you see somebody with a mower or scythe?

THE WITNESS: Yes, a mower. A Ragmonier (ph.) which belonged to her, to Cindy's father.

Q (By Ms. Dayne): Now, outside the areas that were mowed, the paths around the marihuana plants, what did that area look like?

A Around where the plants were? Outside them?

Q Outside.

A All leafy.

Q And trees?

A Yeah.

Q Now, the last time, I believe you said you saw these plants several times that summer. The last time you saw those plants, how big were they?

A Taller than me.

Q Now, during that summer of '91, did you ever see the [145] defendant with a marihuana plant or part of a plant that had been pulled?

A Yes.

Q What did you see and where?

A One day the defendant came in the house and said that a piece of one of his plants fell out and he was going to put it in the freezer to save it.

Q And did you see him put it in the freezer?

A Yeah, it was in the garage the day that he did that.

Q Was there any other time you saw the defendant come in the house with a plant or part of a plant?

A No, because I wasn't there when they harvested them.

Q Did you ever see the defendant put a marihuana plant or part of a plant in the oven or microwave?

A Yeah.

MR. EMERY: Object to the leading nature of the question, your Honor.

Q (By Ms. Dayne): When was that?

THE COURT: No, no, another time.

Q (By Ms. Dayne): When did you see that?

A September sometime maybe.

Q And what did you see this defendant do?

A He took a bud that he had and he wanted to smoke it, and it wasn't dry so he put it in the microwave to dry it out.

Q And you saw him do that?

[146]

A Yes.

Q And did you see him take it out of the microwave?

A Yes.

Q And what did he do then?

A He cut it up and he rolled it in papers and then he smoked it.

Q Do you know if these marihuana plants were ever harvested?

A Yes, I do.

Q How do you know that?

A Because one day I called the defendant's son because he was supposed to come to my house, and he couldn't come because he had to help his dad pull plants.

MR. EMERY: Well, objection, your Honor.

THE COURT: That would be hearsay, wouldn't it?

MR. EMERY: Yes.

MS. DAYNE: Yes.

THE COURT: It would be based upon what the son told her.

MS. DAYNE: The son and the wife were co-conspirators, your Honor. She has testified that they would both help take care of these plants.

THE COURT: They are not charged.

MS. DAYNE: That's right.

THE COURT: I'll allow the testimony.

MR. EMERY: All right.

[147]

Q (By Ms. Dayne): Do you know what happened to the marihuana plants after they were pulled?

A Yes, I do.

Q What happened to those plants?

A They were taken into the defendant's home in a crawl space and hung by hooks.

Q Did you see them there?

A Yes, I did.

Q How did you happen to see them there?

A They showed them to me.

Q Who do you mean by "they"?

A The defendant.

Q And how did you get into this crawl space?

A When you go into the house there is a master bedroom to the left, and there is also a closet behind the master bedroom door, and in that closet there is a door on the floor that you pull up and that is the entrance to the crawl space.

Q Who sleeps in that master bedroom?

A The defendant and his wife.

Q Now, did you actually go down in the crawl space? How did you see what was down there?

A I laid on the floor and put my head down to look.

Q And what exactly did you see?

A Marihuana plants hanging from hooks upside down.

Q Was there any light down there that allowed you to see [148] this?

A Yes, there was. There was a purple, I guess they call them grow lights, with—and they had aluminum foil spread out around down in the crawl space. And they had this light on all the time.

Q Why do you say it was on all the time?

A Well, because in one of their bathrooms that you go into there is a vent, and in that vent you can see the light from the bathroom vent.

Q Sort of back in the floor, you mean?

A No, it's in the wall, but you can see it shining up because it's from that point up.

MS. DAYNE: May I approach the witness, your Honor?

Q (By Ms. Dayne): I have handed you Government's Exhibit Number 16. What is that a photograph of?

A The entrance to the crawl space in the defendant's home.

Q Now, do you know what happened to this marihuana that you saw in the crawl space after it was dried?

A They smoked it.

Q Who did you see smoke it?

A Jerry and—or Guy and his friends, and sometimes the defendant's son.

Q Did you ever smoke it with them?

A Yes, I did.

Q Do you still smoke marihuana?

[149]

A No, I don't.

Q You know it's illegal, right?

A Yes, I do.

Q Why did you smoke with them?

A I don't know.

Q When you went into the defendant's house, and I'm talking about this whole time that you went with Brian, was there any time that you were in the house that you could smell marihuana in the house?

A Yeah.

Q When could you smell it?

A Whenever they smoked it. Whenever you walked into the house.

Q About how long would that have been? You said you were in there almost every day.

A Every day.

Q Did you ever see any firearms at the defendant's house?

A Yes.

Q Where did you see firearms?

A They kept one, it was either by the fireplace all the time or the back door all the time.

Q Was this a long gun?

A Yeah, it was like a rifle or something like that.

Q Do you know if that gun was loaded?

A Oh, yeah.

[150]

Q How did you know it was loaded?

A Because one day we saw a frog in the back yard and we shot at the frog, and I asked how come they kept it loaded and they said for trespassers.

MR. EMERY: Objection, your Honor.

THE COURT: I must hear a basis for it now to be able to admit this under an exception to hearsay.

MR. EMERY: Well, I just—

THE COURT: You're not asking your questions in short enough phrases.

Let's go ahead.

Q (By Ms. Dayne): Do you know Officer Chester Farrier of the Morris Police Department?

A Yes, I do.

Q Did you tell him about what you just testified?

A Yes, I did.

Q Did you describe to him where the marihuana plots were?

A Yes.

Q And did you assist in making a diagram showing where the actual marihuana plants were growing?
A Yes, I did.
Q Did you actually draw the diagram?
A No, a friend of mine drew it because I am not a good drawer.
Q And this diagram was made before the search warrant was [151] executed on July 30th?
A Yes.
Q Approximately when was the first time you ever spoke to anyone from the State Police about his case?
A Um, after, after the search warrant was—
Q Executed?
A Yeah, executed.
Q Okay. Well, approximately how long after, a month, two months, a year?
A A month.
Q And do you remember who you first met with?
A Yes, I do.
Q Who was that?
A Mike Pifer and Frank Secido.
Q And you talked to them about this case?
A Yes.
Q And did they give you any money?
A Yes, they did.
Q Do you remember how much money they gave you?
A Two hundred dollars.
Q Did they tell you why they were giving you that money?
A To pay for any inconvenience or expenses.
Q Was there another time that they gave you money?
A Yes.
Q Do you remember when that was?

[152]

A It was in February when I went to testify in front of the Grand Jury.
Q Do you remember how much you got that time?
A I got a hundred dollars.
Q And was there another time?
A Yes.
Q Do you remember when that was?
A Last month on the 16th, I think, when I went to review my testimony.
Q Was that when you came to my office?
A Yes.
Q And how much money did you get then?
A Two hundred dollars.
MS. DAYNE: I have no other questions, your Honor.
CROSS-EXAMINATION
BY MR. EMERY:
Q Good afternoon, Ms. McPherson.
A Good afternoon.
Q We've never met before, is that right?
A That's right.
Q And you haven't had anyone representing Mr. Ursery ask you any questions before, have you, about what you know about Mr. Ursery?
A No.
Q All the questions that have been asked you so far are [153] questions asked you by police officers and the United States Attorney?
A Yes.
Q Including at the Grand Jury. Maybe a Grand Juror asked you a question?
A Yes, a Grand Juror asked me a question.

Q All right. But today nobody has asked any questions who represents Mr. Ursery's interests, is that correct?

A No, sir, that is correct.

Q My understanding is that in the calendar year 1992 you didn't see anything growing in Mr. Ursery's home or adjacent property or anything; is that a fair statement?

A That is a fair statement.

Q The only information that you are giving the jury today is about something you saw in 1990 or '91?

A That's right.

Q You have no trouble remembering what you heard, is that right?

A Well, all of it was '91.

Q You think it was '91?

A I know it was '91.

* * * * *

[163]

* * * * *

Q Do you know whether or not the Urserys built the home that is located there at 1700 Braden Road?

A They didn't build it. They had a contractor build it.

Q Well, okay. But it was a newly-built home, wasn't it?

A Yes.

Q And have you lived out in that area for most of your young life?

A Yeah, all of my life.

Q Okay. Did that area where this house was built, prior to it being built, was there any homes or

anything in that area? Do you understand what I mean?

A In the area that their house was or on that road in [164] particular?

Q In that particular area where their house now is.

A No, it was an all-wooded area.

Q So someone threw in an cleared out an area for a house and they built a house there?

A Yes.

Q And you observed that in progress during the years that you were out there?

A Yes.

Q And did someone clear out the telephone poles in there so they could have utilities to the house?

A I don't know that much about it now.

Q Was your understanding though that it was all woods in that area prior to building the house?

A Yeah, all my life it was up until that point.

Q Do you have access to that property from locations other than the driveway and the yard immediately surrounding the house?

A Yeah, but it's really thick wood. I don't you'd be able to get it through very good, no.

Q Okay. You said that you drew a map, that you had a friend draw a map?

A Yes.

Q Is that right?

[165]

By the way, do you know who owns the property that surrounds the Ursery's property?

A Just in the back field and on the interfacing opposite of Braden Road. The back field and the field next to it is a friend of ours names Nanasy's.

Q They are friends of yours, are they?

A Yes, friends of our family.

Q I show you what has been marked as Defendant's Exhibit F. Would you look at that, please?

Can you identify that?

A Yes.

Q What is that?

A That is the diagram or the map that my friend wrote or drew of their property.

Q And you gave the person directions to draw the map?

A Yes.

She had been on that property before too.

Q Okay. And this map you drew to be accurate, you were going to give it to a police officer; is that correct?

A Right.

Q Is this map an accurate representation of that property?

A Well, from an amateur point of view I assume that it is.

Q From an amateur?

A Yeah, we are not artists.

Q Does the Ursery property border State Road on the west?

[166]

A Not that I know.

Q Does this map indicate to you that the property is bordered on the west by State Road?

A Yeah.

Q That's funny?

A But it's only 'cause it'd been raining and it wasn't measured out. We didn't measure any portion of the—

Q Did you measure the hundred yards you claim the plots were from the house?

A No, that was just a rough estimate, out of my own thinking.

Q Okay. And you were going to give this to the police, weren't you?

A Yes.

Q You did give it to them as an accurate representation of what the property was?

A No, I gave it to them as a—as kind a go-for. I didn't—It wasn't supposed to be like perfect to a T, 25 yards here and 25 yards there. It was just, like I said, an amateur drawing of a map.

Q I want you to look at Exhibit H that has been admitted into evidence in this case, Ms. McPherson.

Have you ever seen that photograph before?

A No.

Q Does that represent anything that you are familiar with?

A Yes, this is State Road and Braden Road.

[167]

Q Okay.

Do you see the Ursery property?

A Yeah.

Q Do you know where their property ends on the western boundary in the photograph?

A I can't say that I do.

Q It doesn't end at State Road, though, does it?

A No, because there's field over here, and I know whose property that is.

Q That's Mr.—

A Nanasy.

Q Nanasy's property.

Did you ever see Mr. Nanasy out in the field adjoining the Ursery property in 1991?

A Or doing what?

Q Did you see Mr. Nanasy out in the field with some relative of his?

A Andy went out in the field to do his harvesting and stuff like that.

Q He was out there frequently?

A Well, same as any normal farmer would be.

Q Did you ever see traffic up and down Braden Road when you were at the Ursery home?

A Yeah, but not very often.

Q Did you ever see any cars parked on Braden Road to the west [168] of the Ursery property before you got to State Road?

A Not to my recollection.

Q I'm talking about this area here.

A Parked?

Q Yeah, like alongside the road.

A Not to my recollection, no.

Q You never saw that. All these years that you were with Brian McPherson.

A No, they used—I saw them parked down State Road.

Q You saw them parked over here?

A Yes.

Q Okay.

A Yeah.

Q Before this property, the home was built on this property, did kids use this property, teenagers?

A The people who lived down that way just took over the woods. The young kids in the area would go down in the woods.

Q To have a bonfire and—

A No, no. We were really young. We would go and carve in the trees and stuff like that.

Q Okay. You don't know if there was any party or whether there was a party there before?

A. No, I was real young.

Q Now, the Nanasys are your friends; is that right?

A Yes.

[169]

Q Good friends?

A Yeah.

Q Looking at your testimony and talking about seeing things happen, and you use the word "they"; is that correct?

A Yeah.

Q You are saying not just Mr. Ursery but other people were involved in doing some things with respect to the marihuana that you saw in '91?

A Pardon me.

Q Okay. Are you telling us that you saw people other than the defendant who is on trial in this case doing something with respect to the marihuana that you saw in 1991?

A Yes.

Q And those people were who?

A The defendant's wife and son.

Q Was there ever anyone else?

A Yeah, me. I carried a bucket of water out one day.

Q This is '91?

A Yes.

* * * * *

[179]

Q Did anyone tell you that the marihuana plots that they found [180] in 1992 were not on Ursery property?

A Yes.

Q Who told you that?

A The State Police and Marlene.

Q Did anyone tell you that this map that you helped compose and give to the police was not accurate?

A No, I had heard that it was pretty much accurate.

Q Oh, that's what they told you?

A Yeah.

Q Did they ask you, "Well, gee, this isn't Braden Road and State Road over here in the corner of the property"? No one said that to you?

* * * * *

[185]

Q Okay. Let me see if I understand what your testimony is today.

Your testimony is that sometime after you and Brian Ursery broke up in 1992 you got into a conversation with Chester Farrier, a police officer of the City of Lawrence, and told him about marihuana growing on the Ursery property; is that correct?

A That's correct.

Q The reason for you and Brian breaking up is all your idea or his?

A Mine.

Q This was your breakup?

A Yes.

Q You wanted to break up?

A Yes, it was.

Q And then, has what you told the Government included this map, Exhibit A of the—excuse me, Exhibit F for the defense?

A Yes.

Q And then you have testified about information that you [186] observed in 1991, not 1992; is that correct?

A Yeah.

* * * * *

[Excerpt from charging conference, Tr. 289-292]

[289]

* * * * *

THE COURT: You are asking for an instruction on the charge of simple possession?

MR. EMERY: That's correct, Judge.

I have such instruction prepared for that offense.

[290]

MS. JUHASZ: I oppose that request, your Honor. That is the first I have heard of it, so I didn't have the time to research it.

But my recollection of the research that I have done before indicates that it is not appropriate in a case such as this, when the evidence is so overwhelming, that he either planted those marihuana plants or he did not.

Certainly I guess you could look at possession as a part of the charge of the marihuana plants. It is a constructive possession of the plants he was growing, but I don't believe that the charge of simple possession of marihuana is adequately described by the evidence that we have seen in this case.

MR. EMERY: Judge, it is my position that we have indeed had evidence from which the jury could infer possession of marihuana; and it is for that reason alone that I ask for the instruction.

THE COURT: Well, you see, the trouble is here that possession or marihuana is really possession at the end of the manufacturing process. I have not researched this myself, but it seems to me that the charge includes the fact of marihuana in useable form.

The marihuana here that he is charged with manufacturing is not in useable form. It's not any of the marihuana that was found in the house. It's not any—Indeed, [291] no useable marihuana was found in the house.

To my recollection there were some seeds and there were some cigarette butts that assayed out as marihuana, but I don't recall any testimony that there was, I guess to use the vernacular, grass in smoke-

able form, that did not require some further processing.

MR. EMERY: Judge, the only thing I can see is Exhibit 13, which does contain some leafy material, and that is —

THE COURT: The leafy material wasn't analyzed.

MR. EMERY: I think it was.

THE COURT: Was it?

MR. EMERY: Yes, that's part of Exhibit 7.

THE COURT: Yes, but that's not what the charge is.

MR. EMERY: I agree with that.

THE COURT: That's not what the charge is.

And the Government isn't going to suggest that he can be convicted on anything found in the house.

Now, let me suggest this to you: If, after the conclusion of the argument—

MR. EMERY: I will not mention it in my argument, then.

THE COURT: All right.

If, after the conclusion of the Government's argument, first of all, if the Government intends to suggest that anything in the house can be used to convict per se, then I'll [292] see where we go. It is my understanding that the Government is going to argue that the manufacture of the plants that were in the field, and that's not possession of marihuana.

MR. EMERY: The only cases that I could find, Judge, were situations where we have had possession with intent to distribute or distribution of marihuana.

THE COURT: That's right, And there is no charge here of possession with intent to distribute.

Indeed, one of the interesting aspects of this case is the Government has made no effort to suggest that he wasn't going to use this for his own purposes.

MR. EMERY:Judge, may I take up a further matter with the Court?

THE COURT: No, I am going to give the instruction at this time.

MR. EMERY: Thank you, Judge.

* * * * *

[Excerpt from Prosecutor's Rebuttal Summation, Tr. 334-335]

[334]

The defense spent most of his time during this trial trying to make a big issue that the plants weren't on the defendant's property.

If you recall, when we started this trial on Tuesday, the Government right from the very beginning, my opening statement, I didn't say these plants were on the defendant's property. That issue has never been in dispute. The Government later learned that it was on property adjacent to the defendant's property. The plants were within 25 feet of his property. The Government presented no evidence to show that [335] those plants grown on land titled by the defendant.

And if you recall, when Mr. Emery was cross-examining Sgt. Feahr and implying that it was somehow improper that he didn't do more to find out who owned that property, Sgt. Feahr said that the titleowner of that land was not important to him. And likewise it should be of little or no importance to you as you examine the evidence in that trial.

Recall what one of the defense witnesses said. John Boggs said it's common for people who illegally grow

marihuana to plant it on adjacent, abandoned property. The defendant is not stupid. It's not surprising the plants were not on land that he owned. It's much smarter for him to go just over the property line onto the vacant land next door. Close enough that he could cultivate them, keep an eye on them, guard them but safely on land owned by someone else. So that if the police found them, discovered these plants, the defendant could say, "Weren't on my land."

* * * * *

[Excerpt from Jury Instruction, Tr. 360-361]

[360]

You have heard testimony which, if believed, would suggest the defendant may have been involved in the commission of crimes, wrongs or acts not charged in the indictment.

The defendant was not on trial for any charge other than that set forth in the Indictment.

However, the law permits evidence of other crimes, wrongs or acts to be considered by a jury for certain limited purposes. This evidence has been admitted in this case for such limited purposes relating to the charges contained in Count 1 of the Indictment.

Testimony relating to such other crimes, wrongs or acts may only be considered by you in connection with the question of a defendant's identity, knowledge, plan or common scheme regarding the charge contained in the Indictment. You [361] must first determine from all of the other evidence in the case whether you are satisfied beyond a reasonable doubt that the defendant did the act charged in the Indictment. If you do so find you may then, and only then, consider testimony regarding acts not charged

in the Indictment in determining whether in doing the act charged in the Indictment the defendant had an identity, knowledge, plan or common scheme in regard to the charge in the Indictment, and not because of mistake or accident or other innocent reason.

The reason why the law treats such "other acts" evidence, as it is called, in the way I have described is because the law recognizes that it would not be fair to put the defendant on trial for charges not contained in the Indictment or call on a jury to speculate on the defendant's innocence or guilt of the charges in the Indictment on the basis the defendant may have been guilty of other acts.

* * * * *

UNITED STATES DISTRICT COURT

Eastern District of Michigan

In the Matter of the Seizure of
(Address or brief description
of property or premises to be
seized)

CERTAIN REAL PROPERTY LOCATED AT 1700 BRADEN ROAD, PERRY, SHIAWASSEE COUNTY, MICHIGAN, TOGETHER WITH ALL OF ITS FIXTURES, IMPROVEMENTS AND APPURTENANCES

SEIZURE WARRANT

CASE NUMBER 92X75843

TO: Agents of the Drug Enforcement Administration and any Authorized Officer of the United States: Affidavit(s) having been made before me by Christopher J. Hackbarth who has reason to believe that in the Eastern District of Michigan there is now certain property which is subject to forfeiture to the United States, namely (describe the property to be seized)

CERTAIN REAL PROPERTY LOCATED AT 1700 BRADEN ROAD, PERRY, SHIAWASSEE COUNTY, MICHIGAN, TOGETHER WITH ALL OF ITS FIXTURES, IMPROVEMENTS AND APPURTENANCES

I am satisfied that the affidavit(s) and any recorded testimony establish probable cause to believe that the property so described is subject to seizure and that grounds exist for the issuance of this seizure warrant.

YOU ARE HEREBY COMMANDED to seize within 10 days the property specified, serving this warrant and

making the seizure (in the daytime—6:00 a.m. to 10:00 p.m.) (at any time in the day or night as I find reasonable cause has been established), leaving a copy of this warrant and receipt for the property seized, and prepare a written inventory of the property seized, and promptly return this warrant to_____

U.S. Judge or Magistrate

as required by law.

[SEP 30 1992] at Detroit, Michigan

Date and Time Issued City and State

MAGISTRATE JUDGE VIRGINIA A. MORGAN

Name and Title of Judicial Officer

_____

Signature of Judicial Officer

Appendix A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff

vs.

CERTAIN REAL PROPERTY LOCATED AT 1700 BRADEN ROAD, PERRY, SHIAWASSEE COUNTY, MICHIGAN, TOGETHER WITH ALL OF ITS FIXTURES, IMPROVEMENTS AND APPURTENANCES

Defendant.

Misc. No. 92X75843

AFFIDAVIT IN SUPPORT OF SEIZURE WARRANT

State of Michigan)
) ss
County of Shiawassee)

I, Christopher J. Hackbarth, being duly sworn state:

1. I am a duly appointed Special Agent of the U.S. Drug Enforcement Administration (DEA), having been employed as such since 1991.

2. By virtue of my employment with DEA, I perform various tasks which include:

A. Functioning as a surveillance agent observing and recording movements of persons suspected of trafficking in drugs.

Appendix B

B. Interviewing witnesses and informants relative to the illegal trafficking of drugs and the distribution of monetary assets derived from the illegal trafficking of drugs.

C. Investigating asset forfeiture relative to the persons property that was used or intended to be used to facilitate a drug violation.

3. I have participated in numerous domestic marijuana investigations from which I have learned:

A. That marijuana growers use specialized lighting systems to imitate sunlight. These lighting systems, in combination with electrical pumps, special exhaust vents to reduce heat and/or odor, and fans used to circulate carbon dioxide and oxygen substantially increase an indoor marijuana grower's electric cost.

B. That marijuana growers attempt to conceal the rooms or buildings used for growing. This frequently takes the form of blacking out all windows and/or sources of outside light.

C. That marijuana growers use chemicals to enhance growth, promote blooming and budding, and to regulate the acidity of the water for optimum growing conditions.

D. That marijuana growers may keep guns at the locations when they cultivate their marijuana to protect their operations.

E. That marijuana growers often start marijuana plants from seeds or seedlings

indoors and transplant them outside as the spring growing season arrives.

F. That marijuana growers often plant the marijuana plants outdoors in areas away from their residence, and in a number of small plots so as not to bring suspicion upon the growers.

4. As part of my responsibilities, I was specifically assigned to aid in the investigation of **Guy URSERY** in the seizure regarding their use of real property located at **1700 Braden Road, Perry, Michigan**, with reference to the manufacture and/or housing or facilitating of drug trafficking. This location is more particularly described as:

Part of the West 1/2 of the Northeast 1/4 of Section 32, Town 5 North, Range 3 East, Michigan, described as: Beginning at a point on the North line of Section 32 which is North 89 degrees 12 minutes 20 seconds East 669.82 feet from the North 1/4 corner of Section 32; thence continuing along said North line of Section North 89 degrees 12 minutes 20 seconds East 633.84 feet; thence South 01 degrees 46 minutes 55 seconds East 686.20 feet; thence South 89 degrees 12 minutes 20 seconds West 637.22 feet; thence North 01 degrees 30 minutes 00 seconds West 686.15 feet to the point of beginning. Subject to that part now used as Braden Road, so-called.

(Commonly know as 1700 Braden Road, Perry, Michigan)

5. As a result of reports made available to me from State law enforcement officers of the Michigan State Police and the Morrice, Michigan Police Department, I have learned the following:

6. Officer Chester Farrier of the Morrice, Michigan, Police Department has a reliable confidential informant, hereafter referred to as STATE-1. STATE-1 advised Officer Farrier that he/she is aware of a subject named **Guy URSERY**, whom STATE-1 has known for several years. STATE-1 told Officer Farrier that **URSERY** grows marijuana on his property every year by first starting seedlings indoors, and then transplanting them outside to let the plants grow to maturity.

7. The informant further advised Officer Farrier that some of the marijuana is dried by **URSERY** on a woodpile in **URSERY's** backyard and the marijuana is stored in a crawl space of the residence.

8. The informant further said that he/she could draw a map of the exact location of the growing marijuana.

9. Officer Farrier then brought this information to the attention of D/Lt. Mike Pifer, and D/Trpr. Tom Feahr of the Michigan State Police-East Lansing Criminal Investigations Team.

10. Trpr. Feahr personally verified through Michigan Secretary of State driver and vehicle records, that a **Guy URSERY** showed to reside **1700 Braden Road, Perry, Michigan.**

11. Trpr. Feahr and Officer Farrier then, using a map drawn by STATE-1, drove by **URSERY's** residence and saw that the map closely resembled the residence and the surrounding area. They then used the map to locate three outdoor marijuana growing plots on **URSERY's** property. Two of the plots contained at least nine growing marijuana plants each, while the third contained at least twenty-five

plants. Trpr. Feahr seized one growing marijuana plant from one of the plots and both officers left.

12. Trpr. Feahr then had a laboratory exam performed on the marijuana plant, and it was found to be marijuana.

13. Based on the above information, Trpr. Feahr obtained a search warrant from the Shiawassee County Prosecutor's Office on July 29, 1992. The warrant was signed by Magistrate Barnes.

14. On July 30, 1992, members of the Michigan State Police executed the search warrant at **1700 Braden Road, Perry, Michigan.** The three outdoor grow plots which had been found by Trpr. Feahr earlier were located, as well as three additional outdoor grow plots. Numeric seeds, stems and other marijuana plant material was also found inside the residence, as documented below:

A. two (2) brown paper sacks, containing 34 clear plastic baggies, each baggie containing a quantity of green plant stems and seeds, later found to be marijuana, retrieved from the right side, middle drawer of the desk in bedroom No.1

B. one (1) brown pill bottle in the name of Sandra Cain containing suspected marijuana seeds, retrieved from the right side, middle drawer of the desk in bedroom No. 1.

C. one (1) Reebok shoe box with ten (10) clear plastic baggies, each containing suspected marijuana seeds. Item was retrieved from shelf of closet in bedroom No. 1.

D. a quantity of marijuana plant stalks and stems, found in the crawl space of the residence.

E. two (2) clear plastic baggies with suspected marijuana seeds inside, retrieved from the closet of the radio room.

F. a one (1) pound box of Ortho general purpose plant food found on a workbench in the garage.

G. one (1) Mossberg 12 gauge shotgun, model 600AB, serial #C80054, found loaded in bedroom No. 1.

H. twenty-four (24) marijuana plants from grow plot #1,

I. thirty-three (33) marijuana plants from grow plot #2.

J. fourteen (14) marijuana plants from grow plot #3.

K. ten (10) marijuana plants from grow plot #4.

L. forty-nine (49) marijuana plants from grow plot #5.

M. twelve (12) marijuana plants from grow plot #6.

N. one (1) Sylvania grow light, a "Gro-Lux" catalog, #GL-1302, two foot fixture and bulb, and two aluminum support brackets, all found in a box.

O. three (3) clear plastic baggies containing green plant stems and seeds, and a pill bottle in the name of Guy URSERY with a partially burnt hand rolled cigarette inside, found in the upper left desk drawer in bedroom No. 1.

The above drug exhibits were sent to the Michigan State Police Crime Lab for analysis. This analysis indicated the above substances were in fact marijuana.

15. A real property title ownership and encumbrance search for the real property located at **1700 Braden Road, Perry, Michigan** revealed a Warranty Deed, dated July 15, 1988 between Rosalio De La Garza and Linda Marie De La Garza, his wife (as sellers) and **Guy URSERY** and Cynthia K. URSERY, his wife (as buyers) for said property, reflecting the consideration of $19,900.00. The title search further revealed a Mortgage, dated May 2, 1989 between **Guy J. URSERY** and Cynthia K. URSERY and NBD Mortgage Company for **1700 Braden Road**, reflecting the principal sum of $41,000.00. The State Equalized Value (SEV) for the above property is $32,550.00.

Wherefore, based on the above presented facts, the affiant asserts that there is probable cause to believe that the above described parcel of real property is subject to seizure and forfeitable as set forth in Title 21 U.S.C. 881(a)(7).

Dated:_____

_____
Special Agent Christopher Hackbarth
Drug Enforcement Administration

Subscribed and sworn
to before me this VIRGINIA M. MORGAN
___day of 1992 United States Magistrate Judge

[SEP 30 1992]

SUPREME COURT OF THE UNITED STATES

No. 95-345

UNITED STATES, PETITIONER

v.

GUY JEROME URSERY

[Filed Jan. 12, 1996]

ORDER ALLOWING CERTIORARI

The petition herein for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted. This case is consolidated with No. 95-346 - *United States* v. *$405,089.23 in U.S. Currency, et al.* and a total of one hour is allotted for oral argument. The brief of the Solicitor General is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Friday February 23, 1996. The brief of respondent is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Friday, March 22, 1996. A reply brief, if any, is to be filed pursuant to Rule 25.3. Rule 29.2 does not apply.

SUPREME COURT OF THE UNITED STATES

No. 95-346

UNITED STATES, PETITIONER

v.

$405,089.23 IN UNITED STATES CURRENCY, ET AL.

[Filed Jan. 12, 1996]

ORDER ALLOWING CERTIORARI

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted. This case is consolidated with No. 95-345 - *United States* v. *Guy Jerome Ursery* and a total of one hour is allotted for oral argument. The brief of the Solicitor General is to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Friday, February 23, 1996. The briefs of respondents are to be filed with the Clerk and served upon opposing counsel on or before 3 p.m., Friday, March 22, 1996. A reply brief, if any, is to be filed pursuant to Rule 25.3. Rule 29.2 does not apply.